



PART 13 - SETTING ASIDE OR VARYING DEFAULT JUDGMENT

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Scope of this Part

13.1 The rules in this Part set out the procedure for setting aside or varying judgment entered under Part 12 (default judgment).

~~(CGR Order 22 r.10 sets out the procedure for varying the rate at which a judgment debt must be paid)~~

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Cases where the court must set aside judgment entered under Part 12

13.2 The court must set aside^(GL) a judgment entered under Part 12 if judgment was wrongly entered because—

- (a) in the case of a judgment in default of an acknowledgment of service, any of the conditions in rule 12.3(1) and 12.3(3) was not satisfied;
- (b) in the case of a judgment in default of a defence, any of the conditions in rule 12.3(2) and 12.3(3) was not satisfied; or
- (c) the whole of the claim was satisfied before judgment was entered.

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Cases where the court may set aside or vary judgment entered under Part 12

13.3

(1) In any other case, the court may set aside^(GL) or vary a judgment entered under Part 12 if –

(a) the defendant has a real prospect of successfully defending the claim; or

(b) it appears to the court that there is some other good reason why –

(i) the judgment should be set aside or varied; or

(ii) the defendant should be allowed to defend the claim.

(2) In considering whether to set aside^(GL) or vary a judgment entered under Part 12, the matters to which the court must have regard include whether the person seeking to set aside the judgment made an application to do so promptly.

(Rule 3.1(3) provides that the court may attach conditions when it makes an order)

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Application to set aside or vary judgment – procedure

13.4

(1) Where –

(a) the claim is for a specified amount of money;

(b) the judgment was obtained in a court which is not the defendant's home court;

(c) the claim has not been transferred or, in the County Court, sent to another defendant's home court ~~under rule 14.12 (admission – determination of rate of payment by judge) or rule 26.2 (automatic transfer)~~; and

(d) the defendant is an individual; and

in the High Court the court will transfer, or, in the County Court, the court officer will send, an application by a defendant under this Part to set aside^(GL) or vary judgment to the defendant's home court.

(1A) Omitted

(1B) Where –

(a) the claim is for a specified amount of money;

(b) the claim has been started in the County Court Money Claims Centre;

(c) the claim has not been sent to a County Court hearing centre; and

(d) the defendant is not an individual,

an application by a defendant under this Part to set aside or vary the judgment will be sent to the preferred hearing centre.

(2) Paragraph (1) does not apply where the claim was commenced in a specialist list.

(3) An application under rule 13.3 (cases where the court may set aside^(GL) or vary judgment) must be supported by

evidence.

(1C) If a claim is sent to a preferred hearing centre pursuant to paragraph (1B) any further correspondence should be sent to, and any further requests should be made at, the hearing centre to which the claim was sent.

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Omitted

13.5

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Abandoned claim restored where default judgment set aside

13.6 Where –

- (a) the claimant claimed a remedy in addition to one specified in rule 12.4(1) (claims in respect of which the claimant may obtain default judgment by filing a request);
 - (b) the claimant abandoned his claim for that remedy in order to obtain default judgment on request in accordance with rule 12.4(3); and
 - (c) that default judgment is set aside^(GL) under this Part,
- the abandoned claim is restored when the default judgment is set aside.

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